







Sept. 25, 2018

Chair Klint Kesto and Members House Law and Justice Committee 124 N. Capitol Ave. Lansing, MI 48933

Dear Chair Kesto and Committee Members,

A 19-bill package designed to move 17-year-olds from the adult to the juvenile justice system ("Raise the Age") would fundamentally change Michigan's juvenile justice system. While we support the laudable concepts being proposed by this legislation, our members think there are unanswered questions and challenges that <u>must</u> be addressed before taking this step.

These concerns include, but are not limited to:

Capacity — Contrary to the Criminal Justice Policy Commission published report by Hornby Zeller Association (HZA), the current system is already pressed for available detention and treatment beds. The HZA study suggests there are secure and non-secure beds available to accommodate the projected need. This simply cannot be assumed as true, as the treatment of youths locally has been proven to produce more effective outcomes and has created a conversion of open detention beds to short-term treatment beds. This question was not asked in the HZA survey, nor is it necessarily quantifiable because of the rapidly changing needs of our youths and lack of resources to track data.

We do know, from anecdotal findings, that courts have found it difficult to find open beds within a two-hour drive from a youth's location. This presents concerns for courts and counties, but also for the youths and their families involved in these situations.

Programming — Educational programs and vocational training are critical for 17-year-olds preparing to enter adulthood and become independent and responsible community members. Older youths are also typically prone to far more complex mental health issue, educational challenges, and often have housing issues due to being estranged from their parents. Juvenile courts have seen significant increases in the need for intensive mental health treatment, substance abuse treatment, psychotropic medication management, and educational programming — all of which are very costly to the system. Without ensuring funding now for these important treatment programs and staff, we cannot promise our youths the services they deserve.

Funding: While there are potential long-term gains due to lessened rates of recidivism, there is no doubt there will be significant immediate costs for both the state and counties. Currently, juvenile justice is funded through the Child Care Fund, with a 50/50 split of cost between the state and counties. While one of the bills offers a potential funding mechanism to address the substantial increase of costs by adding 17-year-olds to the juvenile justice system, it is not a mechanism that is supported by all of the key interest groups working on this issue. Without a mechanism in place, the state faces a clear violation of the Headlee Amendment and a potential budgetary crisis for counties, large and small.

While we appreciate the Legislature's consideration of this need — identified through House Bill 4789 — there are still practical concerns due to state systems and uncertainty of the actual cost. In the HZA report previously mentioned, costs to counties could range between \$16.9 million and \$34.1 million annually. Additional reports estimated added costs could reach \$89 million. (See attached exhibits).

Even with these concerns, our members are committed to working with the Legislature and advocates to ensure Michigan youths are being served fairly and effectively. At this time, we ask the House committee to continue in its deliberative approach to achieve a full understanding of the impact of this package, as it is currently written, before voting.

Our organizations and other interest groups have been meeting regularly to work through the remaining issues in this legislation, including the funding mechanism, and believe that we will be able to resolve these issues if we can continue our deliberations. The goal of all working in public policy in Michigan is to create a well-funded, efficient and effective juvenile justice system that rehabilitates Michigan's youths.

Respectfully,

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MICHIGAN JUVENILE COURT RAISE THE AGE SURVEY FINAL DATA FINDINGS & RECOMMENDATIONS

January 22, 2018

Hon. Dorene S. Allen, Chair Michigan Juvenile Justice Reform Task Force Sandra K. Metcalf, M.S. Michigan Juvenile Justice Reform Task Force

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Executive Summary

There is consensus among the courts, the proposed Raise the Age legislation allowing 17 years olds to be processed and treated as juveniles, is a laudable effort that will offer them greater opportunity and access to rehabilitative/therapeutic services within the juvenile courts, reaping improved outcomes for these offenders and society at large. To fully examine this system change, however, a determination of the potential fiscal impact is required.

The Criminal Justice Policy Commission contracted with Hornby Zeller Associates, Inc. (HZA) to conduct the fiscal impact study research and submit a report. To broaden this discussion and obtain the most accurate data possible, the Juvenile Justice Reform Task Force met with HZA staff and with the support of the Michigan circuit and probate judges, the court administrators, county administrators, and stakeholders, the Task Force re-tooled the original HZA survey to be juvenile court – specific. It then conducted additional research through the dissemination of the Juvenile Court Administrator Survey (Appendix B) that examines the current status of the juvenile justice system; capacity for accommodating 17 years olds in the system; and the potential fiscal and system impacts reflected in this report. The courts actively responded at a very high level which affirms their support for the RTA legislative endeavor and the serious concern for the potential fiscal impact. The courts and counties clearly understand, RTA legislation will not work without adequate funding.

It is important to note, this report only calculates the estimated cost to juvenile courts. There is no attempt to calculate costs for other institutions such as prosecutors. In addition, there is no attempt to calculate the cost savings as a result of district courts or the Department of Corrections moving an entire year (17 year olds) out of their jurisdiction.

The juvenile courts are part of the circuit courts in Michigan. There are fifty-seven (57) circuit courts in eighty-three (83) counties in Michigan, and the response rate to the Juvenile Court Administrator Survey calculated to be sixty-nine percent (69%) of Michigan counties. Of those twenty-six (26) counties who did not respond to the survey, ten (10) counties are located in the Upper Peninsula, and the others, with the exception of one medium-sized county in southwest Michigan, were small jurisdictions and/or represented counties/courts that were joined with neighboring counties for their circuit court functions.

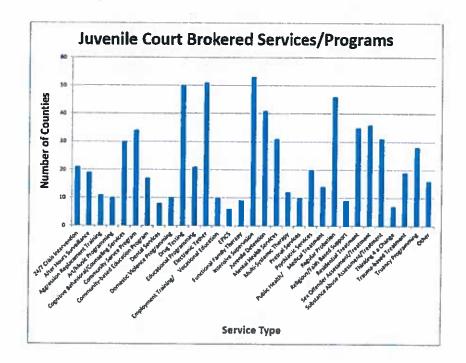
The juvenile court is the original problem-solving court. Problem solving courts, e.g., drug treatment, mental health, family dependency courts, etc., are based on a relational, therapeutic, community-based services model that includes accountability. For decades and increasingly so with the advent of the Child Care Fund cap being removed, the juvenile courts have effectively developed therapeutic and relationally based services to juvenile offenders and their families.

One of the most recent evidence-based strategies supported among the juvenile courts was the implementation of criminogenic risk/needs assessments. This instrument allows the court to better understand the risk areas which need to be addressed and at what level of dosage the optimum treatment level will be most effective to reduce re-offense by the juvenile. Progress in implementation of risk/needs assessment has been made and there is room for expansion.

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Juvenile courts are focused on rehabilitation and offer a continuum of services to juveniles. The chart below identifies thirty (30) evidence-based or promising practice services implemented by the juvenile courts throughout the state. Although there is always room for growth and improvement of services, this is evidence the juvenile courts are very aware of, value, and have implemented evidence-based and promising practices to treat the individualized, unique needs of each juvenile resulting in a cost-effective system.

Through allowing 17 year olds to have access to such services in the juvenile courts, RTA legislation endeavors to rehabilitate rather than criminalize these young people which has been the juvenile courts' strategy for decades. The RTA initiative strives to capitalize on the effectiveness of the juvenile court model in Michigan toward better outcomes for 17 year old offenders.



Problem solving courts have their place in the continuum of services within the juvenile courts. However, a minority of the juvenile courts have active problem solving courts. This may be attributed to the courts offering a variety of flexible services to juveniles and their families versus the courts committing to a prescribed model.

It is commonly known, crime has been dropping across the criminal justice system, and the juvenile court is no exception. A critical notation to this trend is that although the numbers of referrals have reduced, the complexity and severity of the needs of the youth and families served has *dramatically* increased, taxing the juvenile courts with psychotropic medication management, intensive mental health disorder treatment, substance abuse treatment, etc. Such services are costly and quickly exhaust resources.

- Oversixty percent (60%) of the respondent juvenile courts will not have adequate services to accommodate the needs of 17 year olds.
- Seventy-four (74%) percent indicated they will not have adequate staff to manage the additional caseload.

If passed, RTA legislation will impact the juvenile detention centers in Michigan. Currently, there are twenty-one (21) county or court operated facilities.

- Juvenile courts have been finding open detention beds difficult to find for months as many are not within driving distance of the rural courts.
- Reported average occupancy rate is sixty-five percent (65%). Many facilities have a significantly higher occupancy rate; one small facility reported an extremely low occupancy rate. Removing this one facility changes the occupancy rate to 77%.
- Five facilities reported sixty-percent (60%) or lower occupancy; unique circumstances suggest this data outcome
 is misleading. Location may influence the occupancy rate as most are located in the southeastern part of the
 state. Cost may also be a factor in some.

Juvenile court budgets will be substantially impacted by the passing of the RTA legislation. The respondent courts reported a total collective budget of \$314,449,014 with reimbursement from the Child Care Fund being \$108,902,636. The reported budget totals include costs for child welfare in addition to juvenile justice (delinquency) cases. It is important to note the RTA legislation does not include child welfare cases unless they are "dual wards" or "crossover youth" cases in which the children are involved in the delinquency and the neglect/abuse side of the courts. For purposes of this Report, the juvenile court budgets include child welfare expenditures of foster care and institutional/residential care.

Based on the total courts' budgets reflecting \$314,500,000 in expenditures in 2016 and adding 29%, the total *estimated fiscal impact to juvenile courts (Family Division) equals an additional \$89,764,453 cost to the juvenile courts*. The formula to support this estimate is as follows:

- Forty-nine (49) respondent courts estimated a twenty-one percent (21%) increase in caseload or 4,700 additional youth.
 - o Eight (8) courts did not answer this question; it is assumed those courts will have a similar experience to the forty-nine (49) courts who reported an estimated 21% <u>increase in caseload</u>.
 - Applying a twenty-one percent (21%) increase in caseloads for the eight (8) courts = 1,664 additional youth
 - o 4,700 + 1,664 = 6,364 total estimated additional youth
- The total 2016 budget for 57 juvenile courts = \$314,500,000
 - The total number of youth for 2016 = 22,297.
 - The cost per youth per year (2016) is \$14,105 (\$314,500,000 ÷22,297 = \$14,105/youth/year)
 - \circ \$314,500,000 (2016 reported total budget) \div 6,364 (estimated number of youth, including 17 yr. olds for the 57 respondent courts) = \$14,105/youth/year
 - \$14,105/youth/year x 6,364 estimated youth = \$89,764,453 additional cost
 - \$89,764,453 ÷314,500,000 = .285 or a 29% <u>rate of budget increase</u> from 2016 total juvenile court budget amount as reported in the Survey.

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THE COST OF RAISING THE AGE OF JUVENILE JUSTICE IN MICHIGAN

FINAL REPORT

Prepared for STATE OF MICHIGAN LEGISLATIVE COUNCIL CRIMINAL JUSTICE POLICY COMMISSION

By
HORNBY ZELLER ASSOCIATES, INC.

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March 2018

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March 14, 2018

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Executive Summary

While most states now hold the upper boundary of the juvenile court's jurisdiction at 17 years of age, at the beginning of this year Michigan was one of five states to use a lower age, treating 17 year-old offenders as adults. While Michigan is considering raising the maximum age of juvenile court jurisdiction to 17, doing so is likely to have fiscal impacts, positive or negative, on both the State and the counties.

In an effort to inform the deliberations on legislation to raise the age, the Criminal Justice Policy Commission (CJPC) of the Legislative Council requested a study of the cost implications. Hornby Zeller Associates, Inc., through a competitive bid, was selected to study the cost implications, taking into account costs to the State and county governments.

Estimates in this report rely on data obtained from the State Court Administrative Office's Judicial Data Warehouse. Specifically, these data tell us what happened to 15 and 16 year olds who were petitioned to court so that projections could be made as to what may happen to 17 year olds currently charged with having committed an offense if Michigan raises the age. Data were not available to estimate the potential impact associated with non-petitioned cases (those diverted prior to court involvement). National data predicts that 44 percent of juvenile delinquency cases are not petitioned to court, with youth less likely to be diverted as they age. The absence of data on non-petitioned juvenile cases in Michigan prevents estimation of the number of 17 year olds whose cases might be diverted prior to court involvement, likely over projecting their court involvement and costs to the State.

Focusing on the costs which could be estimated, if Michigan chooses to raise the age to 17, increased costs to the counties are expected to range between \$16.9 million and \$34.1 million annually. Costs to the State will also increase, somewhere between \$9.6 million and \$26.8 million. How much the counties and State will incur is based on the type of residential placement in which juveniles are placed (i.e., state vs. private secure care and secure vs. non-secure placement) and their length of stay. Table E-1 summarizes the net cost changes by county group, as well as the State, using data for 2016.

-		
	Table E-1 Net Cost Changes	
	High Estimate	Low Estimate
County Group		
Kent	\$3,671,568	\$1,240,075
Macomb	\$1,056,622	\$498,721
Oakland	\$3,341,333	\$1,109,729
Wayne	\$5,469,668	\$4,136,428
Group 2	\$13,280,898	\$6,846,158
Group 3	\$4,829,422	\$1,766,498
Group 4	\$1,495,342	\$907,782
Group 5	\$920,450	\$392,208

	Table E-1 Net Cost Changes	
	High Estimate	Low Estimate
County Total	\$34,065,303	\$16,897,599
State Total	\$26,787,978	\$9,620,275
Overall Total	\$60,853,281	\$26,517,874/

A summary of how the costs were calculated follows the highlighted cost changes below which are based on population estimates and costs for 2016.

- Overall, the cost impact to the courts, prosecuting attorneys and jails will cost Michigan \$4.7 million annually, with a decrease in costs for district courts and jails and an increase for circuit courts and prosecuting attorneys.
- For 17 year-olds charged with a felony or misdemeanor, costs for residential care, probation and in-home services will range between \$54.7 million and \$20.4 million, dependent on the level of residential care youth need and the length of time they are in placement. Counties will be responsible for slightly more than half of the costs, ranging between \$28.5 and \$11.3 million, with the balance to be the responsibility of the state.
- Costs for 17 year-olds charged with a traffic offense will cost Michigan \$1.4 million, with counties responsible for close to 60 percent of those costs and the state the remainder.

Population Estimates

Before any cost questions can be answered, the size of the population which would be reclassified must be estimated, as must the type of destination to which each one would be assigned as a juvenile. Based on the number of 17 year-olds charged over calendar years 2014 through 2016, and on Michigan law and past experience in trying juvenile offenders as adults, Table E-2 shows how many 17 year-old offenders would be expected to be treated as juveniles and how many will be waived to adult court. Throughout the report, both cost figures and population figures represent 2016. Included within the table are 17 year-olds who incurred a traffic violation.

		Table E-2 harge and Projected F d by County Group	uture Status	
County Group	Felony/Misdemeanor	Traffic Violation	Adult Court	Total
County Group Kent	Felony/Misdemeanor 314	Traffic Violation	Adult Court	Total 425